

1 HOUSE BILL NO. 174

2 INTRODUCED BY K. HOLMLUND

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOL REGULATORY LAWS
5 RELATING TO WINERIES; REQUIRING WINERIES LOCATED IN MONTANA TO IMPORT A CERTAIN
6 AMOUNT OF JUICE FOR WINE PRODUCTION; ALLOWING CERTAIN WINERIES LOCATED IN THE STATE
7 THAT MEET PRODUCTION REQUIREMENTS TO OPERATE SATELLITE TASTING ROOMS; ALLOWING
8 THE DEPARTMENT TO WAIVE AGRICULTURAL IMPORTATION LIMITS IN THE EVENT OF
9 CATASTROPHIC AGRICULTURAL EVENTS; REVISING SHIPMENT LIMITS; ALLOWING CERTAIN
10 WINERIES TO OBTAIN SPECIAL EVENT PERMITS; EXPANDING RULEMAKING AUTHORITY; AMENDING
11 SECTIONS 16-3-411 AND 16-4-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
12 APPLICABILITY DATE."
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15

16 **Section 1.** Section 16-3-411, MCA, is amended to read:

17 **"16-3-411. Winery.** (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

- 18 (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;
19 (b) sell wine it produces at wholesale to wine distributors;
20 (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the
21 premises;
22 (d) provide, without charge, wine it produces for consumption at the winery;
23 (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it
24 produces;
25 (f) obtain a special event permit under 16-4-301;
26 (g) perform those operations and cellar treatments that are permitted for bonded winery premises
27 under applicable regulations of the United States department of the treasury;
28 (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of

1 the license; or

2 (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part 11,
3 directly to an individual in Montana who is at least 21 years of age.

4 (2) A winery located in Montana and licensed pursuant to 16-4-107 after [the effective date of this act]
5 may import no more than 49% juice or wine for wine production in a calendar year.

6 (3) A winery located in Montana and licensed pursuant to 16-4-107 that imports no more than 49%
7 juice, wine, fruit, or any other fermentable agricultural products for wine production in a calendar year:

8 (a) may establish seven satellite tasting rooms in which:

9 (i) a person may not taste more than 2 ounces of each wine variety in the same day;

10 (ii) wine may be sold only for off-premises consumption and must be in its original packaging; and

11 (iii) samples may be provided only between 8 a.m. to 8 p.m.; and

12 (b) may apply for special permits as provided in 16-4-301(1)(e).

13 (4) The limit on importation of agricultural products in subsection (3) may be waived by the department
14 by rule if weather or other catastrophic agricultural events affecting agricultural production in the state prevent
15 the winery from meeting the requirements of subsection (3).

16 ~~(2)(5)~~ (a) A winery licensed pursuant to 16-4-107 may sell and deliver wine produced by the winery
17 directly to licensed retailers if the winery:

18 (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine delivered
19 pursuant to this subsection ~~(2)(a)(i)~~ (5)(a)(i) does not exceed ~~4,500-6,000~~ cases a year;

20 (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the retailer;

21 or

22 (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:

23 (A) the wine shipped and delivered by common carrier is shipped directly from the producer's winery
24 or bonded warehouse;

25 (B) individual shipments delivered by common carrier are limited to three cases a day for each
26 licensed retailer; and

27 (C) the shipments delivered by common carrier do not exceed ~~4,500-6,000~~ cases a year.

28 (b) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors and

1 retailers, the shipment must be:

2 (i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to
3 Montana Licensee";

4 (ii) delivered to the premises of a licensed table wine distributor or licensed retailer who is in good
5 standing; and

6 (iii) signed for by the wine distributor or retailer or its employee or agent.

7 (c) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine
8 within the state under this subsection ~~(2)~~ (5) shall maintain records of all sales and shipments. The winery shall,
9 pursuant to 16-1-411, electronically file a report in the manner and form prescribed by the department, reporting
10 the amount of wine or hard cider, or both, that it shipped in the state during the preceding period, including the
11 names and addresses of consignees or retailers, and other information that the department may determine to
12 be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to the
13 requirements of this code."

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15 **Section 2.** Section 16-4-301, MCA, is amended to read:

16 **"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application**
17 **and issuance.** (1) (a) An organization or institution that has a tax-exempt designation under the provisions of
18 section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended, that is organized and
19 operated to raise funds for a needy person or that is an accredited Montana postsecondary school and that
20 conducts a special event may receive a special permit to sell beer and table wine to the patrons of that special
21 event. An organization may receive up to three special permits a year.

22 (b) A civic league or organization that has a tax-exempt designation under section 501(c)(4) of the
23 Internal Revenue Code, 26 U.S.C. 501(c)(4), as amended, or an organization authorized by an accredited
24 Montana postsecondary school to engage in fundraising activities for intercollegiate athletics that has a tax-
25 exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C.
26 501(c)(3), as amended, may receive up to 12 special permits a year to sell beer and table wine. For purposes
27 of fundraising activities for intercollegiate athletics, only one organization for each Montana postsecondary
28 school may be authorized to apply for and receive special permits under this section. All net earnings from the

1 sale of beer and table wine must be contributed to the state of Montana or a political subdivision of the state or
2 must be devoted to purposes required of entities under section 501(c)(3) of the Internal Revenue Code, 26
3 U.S.C. 501(c)(3), as amended.

4 (c) An association or corporation engaged in professional sporting contests or junior hockey contests
5 may receive one special permit to sell beer and table wine covering the entire season of play if:

6 (i) the association or corporation is sanctioned by a sports organization that regulates the specific
7 sport;

8 (ii) the season of play of the sport is specified in advance;

9 (iii) an admission fee to the contests is charged; and

10 (iv) the contest events are held in facilities that provide seating for at least 1,000 patrons.

11 (d) A chamber of commerce or business league that has a tax-exempt designation under section
12 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(6), as amended, may receive up to 12 special
13 permits a year to sell beer and table wine. A chamber of commerce may not use one of its special permits for
14 an event conducted by a business league, and a business league may not use one of its permits for an event
15 conducted by a chamber of commerce. The chamber of commerce or business league receiving a special
16 permit shall obtain liquor liability insurance for any event it conducts.

17 (e) A winery licensed pursuant to 16-4-107 may receive up to 10 special permits a year to sell table
18 wine to patrons at a special event. A winery that also meets the requirements of 16-3-411(3) may receive 24
19 special permits a year. The wine sold under this subsection (1)(e) may be consumed at the time of the special
20 event within the enclosed area where the special event is held or may be sold in original packaging for later
21 consumption off-site. The special permits include but are not limited to permission to sell at special events,
22 including but not limited to farmer's markets and county fairs, if:

23 (i) permitted by local ordinance;

24 (ii) the winery holding the special permit has obtained liquor liability insurance;

25 (iii) the winery holding the special permit uses the winery's own equipment, trucks, and employees to
26 deliver the wine to the special event; and

27 (iv) the winery holding the special permit has trained servers at the special event as provided in 16-4-
28 1006.

1 ~~(f)~~ The Except as provided in subsection (1)(e), beer and wine sold under this subsection (1) must be
2 consumed at the time when and within the enclosure where the special event, activity, or sporting contest is
3 held.

4 ~~(f)~~(g) An application for a special permit must be presented 3 days in advance, but the department
5 may, for good cause, waive the 3-day requirement. The application must describe the location of the enclosure
6 where the special event, activity, or sporting contest is to be held, the nature of the special event, activity, or
7 sporting contest, and the period during which it is contemplated that the special event, activity, or sporting
8 contest will be held. An application for a permit for professional sporting contests or junior hockey contests
9 under subsection (1)(c) must provide the inclusive dates of the season of play for the sporting contest. The
10 application must be accompanied by the amount of the permit fee and a written statement of approval of the
11 premises where the special event, activity, or sporting contest is to be held issued by the local law enforcement
12 agency that has jurisdiction over the premises.

13 ~~(g)~~(h) A special permit issued under this subsection (1) for the purpose of selling and serving beer or
14 wine at a special event, activity, or sporting contest conducted on the premises of a county fairground or public
15 sports arena authorizes the permit holder to sell and serve beer or wine in the grandstand and bleacher area of
16 the premises, as well as from a booth, stand, or other fixed place on the premises.

17 ~~(h)~~(i) For the purposes of this subsection (1), a post of a nationally chartered veterans' organization or
18 a lodge of a recognized national fraternal organization otherwise licensed under this code is an organization
19 that may receive special permits for three special events a year, as described in subsection (1)(a), to sell beer
20 and table wine. All net proceeds must go to the post or lodge acquiring the special permit.

21 (2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national
22 fraternal organization not otherwise licensed under this code may receive, without notice or hearing as provided
23 in 16-4-207, a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at the
24 post or lodge to members and their guests only, to be consumed within the hall or building of the post or lodge.

25 (b) The application of a nationally chartered veterans' organization or lodge of a recognized national
26 fraternal organization must describe the location of the hall or building where the special permit will be used and
27 the date it will be used.

28 (c) The special permit may be issued for a 24-hour period only, ending at 2 a.m., and the department

1 may not issue more than 12 special permits to any post or lodge during a calendar year."

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3 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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5 NEW SECTION. **Section 4. Applicability.** [This act] applies to wineries licensed and winery license
6 applications submitted on or after [the effective date of this act].

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